IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Crl.MC.No. 3358 of 2007()

CC.961/2004 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O), ERNAKULAM

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PETITIONER:

R.KRISHNAKUMAR PRABHU,
S/O.V.RAMANANDA PRABHU, AGED 37 YEARS,
RESIDING AT SREE MEHALEKSHMI GRIHA SANKULAM,
T-2, T.D.WEST ROAD, ERNAKULAM, KOCHI-682 035.

BY ADV. SRI.V.SANTHARAM
SRI.ANTO THOMAS

RESPONDENTS: COMPLAINANT

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1. THOPPIL CHITS PRIVATE LTD., THOPPIL TOWERS, KATHRIKADAVU ROAD, KALOOR, KOCHI-682 017, REPRESENTED BY ITS MANAGING DIRECTOR, T.V.THOMAS.

2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3358 OF 2007 F

Dated this the 3rd day of December, 2007

O R D E R

One Ramananda Prabhu, father of the petitioner herein, is the accused in a prosecution under section 138 of the Negotiable Instruments Act, 1881. There was a finding recorded earlier that the said accused is not fit to stand trial. A long period has elapsed. The learned Magistrate has now directed that the said accused be produced before the learned Magistrate for fresh assessment/evaluation of the fitness of the said accused to stand trial. The petitioner represents his father and submits that his father is in such a state of health that it is impossible to produce him before the learned Magistrate.

2. Report of the learned Magistrate was called for. The learned Magistrate in the report submits that the direction to appear was issued on the reasonable belief that the accused was now fit to stand trial. The learned Magistrate further reports as follows:-

"I may respectfully submit that I shall permit the petitioner to adduce all such

evidences and place relevant materials before this court and an appropriate order on merits shall thereafter be passed. I may also submit that till then the warrant of arrest issued against the accused in the case will not be executed. "

3. I am satisfied from the said report that the learned Additional Chief Judicial Magistrate can be directed to consider the matter afresh and pass appropriate orders in the matter. No further directions appear to be necessary. The petitioner shall be at liberty to place all relevant materials and raise all contentions before the learned Magistrate. Appropriate orders on merit must be passed by the learned Magistrate as expeditiously as possible.

4. This Crl.M.C. is accordingly dismissed accepting the report of the learned Magistrate.

(R.BASANT, JUDGE)

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